

**BOARD OF MEDICINE
EXECUTIVE COMMITTEE**

MINUTES

APRIL 4, 2003

Harry C. Beaver, M.D., Chair, called the meeting of the Executive Committee to order at 8:00 a.m., at the Department of Health Professions ("DHP").

MEMBERS PRESENT: Harry C. Beaver, M.D., Chair
J. Kirkwood Allen, Citizen Member
Cheryl Jordan, M.D.
Robert P. Nirschl, M.D.
Dianne L. Reynolds-Cane, M.D.
Kenneth J. Walker, M.D.
Jerry R. Willis, D.C.

STAFF PRESENT: William L. Harp, M.D., Executive Director
Ola Powers, Deputy Executive Director of Licensure
Karen Perrine, Deputy Executive Director of Discipline
Kate Nosbisch, Deputy Executive Director of Physician Profile
Robert Nebiker, Director, DHP
Gail D. Jaspen, Chief Deputy Director, DHP
Elaine Yeatts, Senior Regulatory Analyst, DHP
Roscoe Roberts, Assistant Attorney General
Deborah A. Ordiway, Recording Secretary

ADOPTION OF AGENDA

Dr. Willis moved to adopt the agenda. The motion was seconded and carried unanimously.

PUBLIC COMMENT ON AGENDA ITEMS

There was no public comment.

APPROVAL OF MINUTES – DECEMBER 13, 2002 MEETING

Dr. Jordan moved to approve the minutes of the Executive Committee dated December 13, 2002. The motion was seconded and carried unanimously.

#1 Chart on status of regulations

Contained in the agenda packet was a copy of the Board of Medicine's regulatory actions for information.

#2 Regulatory actions

Adoption of final regulations – voluntary practice

Dr. Nirschl moved to adopt the six regulations (Regulations Governing the Practice of Medicine, Osteopathy, Podiatry and Chiropractic; Regulations Governing the Practice of Respiratory Care; Regulations Governing the Practice of Occupational Therapy; Regulations Governing the Practice of Radiologic Technology; Regulations Governing the Practice of Licensed Acupuncturists and Regulations Governing the Certification of Athletic Trainers) on voluntary practice. The motion was seconded and carried unanimously.

Adoption of final regulations – periodic review of Regulations Governing the Practice of Radiologic Technology

Dr. Jordan moved to adopt the final Regulations Governing the Practice of Radiologic Technology. The motion was seconded and carried unanimously.

Adoption of final regulations – Regulations Governing the Practice of Physician Assistants

Dr. Jordan moved to adopt the final Regulations Governing the Practice of Physician Assistants. The motion was seconded and carried unanimously.

#3 Executive Director's report – William Harp, MD

Dr. Walker moved to utilize the laptops at IFCs and have laptop training at the June 5, 2003 board meeting. The motion was seconded and carried unanimously.

Dr. Harp announced that the Board of Medicine has three new positions for the discipline section and stated that board members may be asked to serve on an interview panel for the position of medical review coordinator.

Dr. Harp announced that the Health Practitioners' Intervention Program and Virginia Pharmacists Association will be having a conference on May 8-10, 2003 at the Richmond Sheraton Hotel.

Virginians Improving Patient Care and Safety will be having a conference on May 15, 2003 at the Richmond Convention Center.

#4 Discipline report – Karen Perrine

Ms. Perrine stated that there has been an increase in the number of cases and a greater increase is expected due to HB 1441, profile and continuing education. Already, special dates for the month of May have been set for hearing the profile cases. It is anticipated that the Board would need 25 additional IFC days and 10 more formal hearing days (with two panels each day.)

Mr. Nebiker stated that § 54.1-2919 mandates that the committee of the board hear the cases. Dr. Nirschl moved that the Legislative Committee advance through the legislature the modification of § 54.1-2919. The staff will prepare a draft of the bill to be presented at the Legislative Committee. The motion was seconded and carried unanimously.

Dr. Nirschl moved that administrative type cases consist of a two-member committee for IFC's, to be determined by staff, in consult with the Board president if a question arose. The motion was seconded. Mr. Allen suggested that there be three members on the panel when an attorney is present. After discussion, Mr. Allen withdrew his suggestion. The motion carried unanimously.

Dr. Jordan moved that the full Board meet quarterly and that there be a one-day retreat in September. The motion was seconded and carried unanimously.

#5 Board authority in ethics cases – Roscoe Roberts, AAG

Mr. Roberts discussed several issues regarding Virginia Code Section 54.1-2914.A.7 which defines unprofessional conduct as “conducts his practice in a manner contrary to the standards of ethics of his branch of the healing arts.” Currently, the Board has not adopted any specific regulation regarding ethics. Mr. Roberts reviewed the American Medical Association and American Chiropractic Association code of ethics as examples of current professional code of ethics. Mr. Roberts presented two options to the committee: 1) adopting the code of national organizations, such as American Medical Association or American Chiropractic Association, or 2) adopting the Board's own code of ethics. Mr. Roberts advised against the first.

After discussion, Dr. Jordan moved this issue to the Legislative Committee to consider the development of ethics code, and any statutory changes that may be needed, including an exemption to the Administrative Process Act. The motion was seconded and carried unanimously.

#6 Practitioner information report – Kate Nosbisch

Ms. Nosbisch stated that two licensees who have expired licenses have contacted the Board about updating their profiles. Presently, there is nothing that prevents expired licensees from accessing their profile. They have the capability to delete everything except Virginia Board of Medicine notices and orders and Virginia licensing information.

Dr. Jordan stated it is an individual's choice to delete the self-reported sections of the profile after their Virginia license has expired.

Dr. Harp stated that there should be a blanket statement that this information is self-reported by the licensee and a date that it was last updated. Ms. Nosbisch reported that each section is currently labeled with the last updated date. Ms. Nosbisch asked the Board for guidance regarding instances where we know there is information missing from profiles. This has not

become a concern, but staff wanted to address the issue. The Board agreed to not take any action at this time on these two issues.

Ms. Nosbisch stated that the contract with the vendor will be terminated May 15, 2003 and the call center will be performed in-house.

As of February 12th there are 2,200 doctors who have not updated their profile with the emergency contact information or SB 59 update. Dr. Jordan moved to send a certified letter to these 2,200 doctors. The motion was seconded and carried unanimously.

Dr. Jordan moved to hold the profile cases that are now pending until July 1 when the confidential consent agreement can be utilized. The motion was seconded and carried, with Dr. Willis and Mr. Allen opposed.

Dr. Jordan moved that the Executive Committee would recommend to the full Board that the profiling cases be handled by a confidential consent agreement. The motion was seconded and carried unanimously.

#7 Preparation for HB 1441 changes – Gail Jaspen/Robert Nebiker

Mr. Nebiker stated that 11 new positions at DHP were created exclusively for the disciplinary process, with one position for the Board of Medicine. The renewal fee for medical doctors would increase by \$75. Mr. Nebiker stated guidance is being sought from the attorney generals' office on how to proceed with confidential consent agreements and when they should be offered. The demands on board members time is more than can be reasonably expected. The Board of Nursing is going to delegate the hearing of cases to professional staff and the staff will make a findings of fact, conclusions of law and then the board will make a decision on the sanctions and the board itself will never hear the case. Mr. Nebiker asked that the board think of ways to dispose of some of these matters.

OTHER BUSINESS

Next Executive Committee Meeting: August 1, 2003, 6603 West Broad Street, Richmond, Virginia.

REVIEW OF CASES RECOMMENDED FOR CLOSURE

ADJOURNMENT

With no further business to discuss, the Executive Committee of the Board of Medicine was adjourned.

Harry C. Beaver, M.D.
Chair

William L. Harp, M.D.
Executive Director

Deborah A. Ordiway
Recording Secretary